

REMARKS

Applicant respectfully requests reconsideration and allowance of claims 1-22 and 26-30, which are pending in the above-identified application. Claims 1-22 stand rejected, and claims 23-25 stand cancelled. By the foregoing amendment, Applicant has amended claims 1, 5, 7-8, 12, 15-16 and 21, and has added new independent claim 26 and dependent claims 27-30 herein. No new matter is added by the amendments. Support for the new claims may be found in at least claims 23-25 and page 11, lines 8-19 of the specification of the instant application as originally filed. In view of the following discussion, Applicant submits that all pending claims are in condition for allowance.

“Adapted to” language:

At page 2 of the Office Action, the Examiner has stated that certain limitations of claim 21 that recite “adapted to” may not be considered as positive limitations and that such limitations may not be given patentable weight. Applicant has amended claim 21 to employ language that positively recites the limitations thereof. As such, Applicant submits that the Examiner’s claim objection has been overcome, and respectfully requests that the Examiner give appropriate patentable weight to such limitations.

Claim Rejection Under 35 U.S.C. §112, second paragraph:

At page 3 of the Office Action, the Examiner has rejected claim 7 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Applicant has amended claim 7 to provide proper antecedent basis for the limitation “said step of assigning is performed by a system gateway administrator”. As such, Applicant submits that claim 7 now clearly recites the subject limitation with proper basis, and that the Examiner’s §112, second paragraph, claim rejection has been overcome. Accordingly, Applicant respectfully requests that the Examiner’s §112, second paragraph, claim rejection be withdrawn.

Claim Rejections Under 35 U.S.C. §102:

At pages 3-4 of the Office Action, the Examiner has rejected claims 1, 3, 8, 15, 16, 18, and 20 under 35 U.S.C. §102(b) as being anticipated by Pei (U.S. Pat. No. 5,406,620). In view of the amendments herein, Applicant respectfully submits that the Examiner's claim rejection has been overcome.

Amended independent claims 1, 8, and 16 recite, in part, providing said one originating gateway comprising more than one port; and assigning to each of the more than one communications carrier (or plurality of carrier servers as recited in claim 16) in said network a particular port within said one originating gateway, each assigned particular port being different from each other.

By way of background, embodiments of claims 1, 8, and 16 may include a gateway GW1, GW2 with a plurality of ports P1-P7, the gateway GW1, GW2 operating to communicate with a plurality of communications carriers or carrier servers C1-C7 on a data network 102. Each carrier or carrier servers C1-C7 may be assigned a different particular port P1-P7 such that the carriers or carrier servers do not share a port P1-P7. (See FIGS. 4-5, page 10, line 21 to page 11, line 7.)

The Examiner alleges that Pei inherently discloses assigning a port as recited in claim 16. Applicant respectfully disagrees with the Examiner.

Applicant submits that Pei does not explicitly nor inherently disclose assigning to each of the more than one communications carrier or carrier servers a particular port, where each port is different from another as recited in claims 1, 8, and 16 of the instant application. According to MPEP §2112, for inherency to exist, the extrinsic evidence must:

make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.

Inherency is only supported when the alleged inherent characteristic necessarily follows from the express teachings of the prior art. The originating gateway switch 100 of the Pei system does not have a plurality of ports where a different port is assigned to each of a plurality of carriers 40, 50, 60. For the sake of argument, even if Pei inherently discloses a "port" (which

Applicant does not concede), Pei does not teach the structure and functionality of having different ports assigned to each carriers as claimed. The trunk groups 150-182 of the Pei system may permit a connection between the originating gateway switch 100 and a carrier 40, 50, 60. However, Pei does not disclose or suggest how the trunk groups 150-182 structurally interact with the originating gateway 100. Indeed, although not taught by Pei, various structural arrangements are possible. For example, a trunk group may employ a plurality of "ports" (e.g., to increase bandwidth), and any data sent through the trunk group does not necessarily use different ports depending on the carrier or carrier server to which the transmission is being sent. Therefore, assigning to each of the more than one communications carrier or carrier servers a particular port, where each port is different from another does not necessarily follow from the teachings of Pei. Accordingly, Pei does not disclose or suggest each and every limitation of claims 1, 8, and 16.

Amended independent claim 15 recites, in part, an apparatus for performing authentication, accounting, and authorization ("AAA") functionality, comprising means for authenticating, accounting, and authorizing said incoming calls at least one of (i) locally at the receiver and/or comparator, and (ii) remotely via at least one of plural remote carrier servers and/or remote sites, wherein the receiver, the comparator, the at least one of plural remote carrier servers and/or remote sites is selected based upon a successful comparison between carrier-identifying indicia and said data associated with said incoming call.

By way of background, at least one embodiment of claim 15 may include a gateway GW1, GW2 with a plurality of ports P1-P7, the gateway GW1, GW2 operating to communicate with a plurality of communications carriers or carrier servers C1-C7 on a data network 102. Depending on data associated with the call, a gateway GW1, GW2 may determine whether or not the incoming call is authorized to proceed or not. If authentication, accounting, and authorization ("AAA") have not yet been performed, the AAA functionality may be performed locally at the gateway GW1, GW2 or at a remote site. (See FIGS. 4-5, page 11, line 8-19.)

Pei does not disclose or suggest: (i) AAA functionality; and (ii) performing AAA functionality locally at a gateway or at remote site as recited in claim 15 of the instant application. As such, Pei does not disclose or suggest each and every limitation of claim 15.

In view of the above, independent claims 1, 8, 15, and 16 are patentable over Pei. As claims 3, 18, and 20 depend from claims 1 and 16, respectively, and recite additional patentable

features, the subject dependent claims are, therefore, likewise patentable. Accordingly, Applicant respectfully requests that the Examiner's §102(b) claim rejection be withdrawn.

Claim Rejections Under 35 U.S.C. §103:

At pages 4-6 of the Office Action, the Examiner has rejected claims 2, 4-7, 9, 11-14, 17, 19, and 21-22 under 35 U.S.C. §103(a) as being unpatentable over Pei in view of Elliott et al. (U.S. Pat. Pub. No. 2008/0025295, hereinafter "Elliott"). In view of the amendments herein, Applicant respectfully submits that the Examiner's claim rejection has been overcome.

The reasons for patentability of claims 1, 8, and 16 over Pei apply with equal weight here. Elliott does not disclose or suggest: (i) assigning to each of the more than one communications carrier or carrier servers a particular port, where each port is different from another as recited in claims 1, 8, and 16; and (ii) AAA functionality, making the determination as to whether AAA functionality was already performed based on the call data, and performing AAA functionality locally at a gateway or at remote site as recited in claim 15. As such, Elliott does not cure the aforementioned deficiencies of Pei, and the teachings of Pei and Elliott, alone or in combination, do not result in claims 1, 8, 15, and 16. As claims 2, 4-7, 9, 11-14, 17, and 19 depend from claims 1, 8, and 16, respectively, and recite additional patentable features, the subject dependent claims are patentable.

Amended independent claim 21 is recited above. Applicant respectfully acknowledges the Examiner's concession at page 5 of the Office Action that Pei does not disclose or suggest the use of an "IVR" as recited.

Applicant submits that Elliott does not disclose or suggest conveying a different script depending upon an identifier associated with a call associated with said calling apparatus, and operating to contact at least one of plural servers upon receipt of the call, the at least one server being selected based upon said identifier as recited in claim 21 of the instant application. Elliott merely discloses a network IVR 654 that can communicate with soft switch 204 via an IPDC protocol. (See [0399] of Elliott.) Elliott is silent on the structure and functionality of conveying different scripts based upon an identifier associated with a call of a calling apparatus as claimed. As such, Elliott does not cure the aforementioned deficiency of Pei, and the teachings of Pei and Elliott, alone or in combination, do not result in claim 21 of the instant application. As claim 22

depends from claim 21, and recites additional patentable features, the subject dependent claim is, therefore, likewise patentable.

In view of the above, Applicant respectfully requests that the Examiner's §103(a) claim rejection be withdrawn.

New Claims 26-30:

As established above, claim 15 is patentable over the cited prior art. As claims 29-30 depend from claim 15, and recite additional patentable features, the subject dependent claims are, therefore, likewise patentable.

New independent claim 26 is recited above. The reasons for patentability of claim 15 over Pei as discussed above apply with equal weight here. Additionally, Pei does not disclose or suggest making the determination as to whether the AAA functionality was already performed based on the call data. As such, Pei does not disclose or suggest each and every limitation of claim 26. Elliott does not cure the aforementioned deficiencies of Pei. As such, claim 26 is patentable. As claims 27-28 depend from claim 26, and recite additional patentable features, the subject dependent claims are, therefore, likewise patentable.

Conclusion:

In view of the foregoing, Applicant submits that the instant claims are in condition for allowance. Early and favorable action is earnestly solicited. The fees for the RCE, new claims, and petition are included herewith. All fees believed to be due at this time have been paid. In the event there are any fees due and owing in connection with this matter, please charge same, or credit any overpayment to, to our Deposit Account No. 50-4711.

Dated: December 21, 2009

Respectfully submitted,

By: s/Jeffrey I. Kaplan/
Jeffrey I. Kaplan
Registration No. 34,356
KAPLAN GILMAN & PERGAMENT LLP
1480 Route 9 North, Suite 204
Woodbridge, New Jersey 07095
Telephone 732-636-4500
Attorneys for Applicant